

# NATIONAL HEALTH SERVICE CORPS PRIVATE PRACTICE OPTION AGREEMENT

Section 338D of the Public Health Service ("PHS") Act [42 U.S.C. 254n] as amended, authorizes the Secretary of Health and Human Services ("the Secretary") to release an obligated individual ("the Individual") from all or part of his/her obligation to serve as a Corps member, which was incurred by entering into: **(1) the Public Health and National Health Service Corps (PH/NHSC) Scholarship Training Program**, Section 225 of the PHS Act [42 U.S.C. 234], as in effect prior to repeal on October 1, 1977; or **(2) the NHSC Scholarship Program**, Sections 338A and 338C-H of the PHS Act [42 U.S.C. 254l-q] ("Section 338A"), or **(3) the NHSC Loan Repayment Program**, Section 338B of the PHS Act [42 U.S.C. 254l-1], to allow the Individual to fulfill his/her service obligation under the Private Practice Option ("PPO"). Under the PPO, the Individual must enter into the full-time private clinical practice of his/her profession in a health professional shortage area ("HPSA") approved by the Secretary. Section 338D also requires that the release to enter into private practice be made under a written agreement between the Individual and the Secretary. The signatures of the Individual and the Secretary below indicate they have agreed to fulfill the provisions of this Agreement:

INDIVIDUAL:

\_\_\_\_\_  
Individual's Name (Print or Type)

\_\_\_\_\_  
Secretary of Health & Human Services  
or Authorized Representative

\_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Title

\_\_\_\_\_  
Individual's Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**The terms and conditions of this Agreement are set forth below:**

## **SECTION A - PROMISES OF THE INDIVIDUAL**

The Individual identified above agrees to:

1. Enter into full-time private clinical practice as a \_\_\_\_\_  
(discipline/specialty) from \_\_\_\_\_ to \_\_\_\_\_.
2. Maintain an office at \_\_\_\_\_  
\_\_\_\_\_.
3. Provide full-time clinical services in the following Federally designated HPSA (include HPSA name and # and UDS#): \_\_\_\_\_  
\_\_\_\_\_.

At least 80 percent of the patients served by the Individual must be residents of this HPSA.



4. Provide the appropriate NHSC representative with a copy of his/her full and unrestricted license for professional practice in the State where the PPO will be exercised, prior to the start of the private practice. The professional license must be dated on or prior to the date the practice begins. The Individual further promises to maintain a full and unrestricted license for professional practice in the State where the PPO practice is located for the duration of his/her NHSC service commitment.
5. For all health professionals, "full-time clinical practice" is defined as a minimum of 40 hours per week of patient care, with no more than 8 of those hours per week devoted to practice-related administrative activities. The practice will include hospital treatment coverage appropriate to meet the needs of patients of the approved practice site and to ensure continuity of care.
  - a. For all health professionals except obstetrician/gynecologists (OB/GYN) physicians, family practice (FP) physicians who practice obstetrics on a regular basis, and certified nurse midwives (CNM), at least 32 of the minimum 40 hours per week must be spent providing clinical services in the ambulatory setting at the approved practice site, during normally scheduled office hours, with the remaining hours spent providing inpatient care to patients of the approved site, and/or in practice-related administrative activities.
  - b. For OB/GYN physicians, FP physicians who practice obstetrics on a regular basis, and CNM practitioners, the majority of the 40 hours per week (not less than 21 hours per week) is expected to be spent providing ambulatory care services at the approved practice site during normally scheduled office hours, with the remaining hours spent providing inpatient care to patients of the approved site, and/or in practice-related administrative activities, with administrative activities not to exceed 8 hours per week.
  - c. The minimum 40 hours per week may be compressed into no less than 4 days per week, with no more than 12 hours of work to be performed in any 24-hour period. Time spent "on-call" will not count toward the 40-hour week.
  - d. No more than 7 weeks (35 work days) per service year can be spent away from the practice for holidays, vacation, illness, continuing professional education. If the Individual is away from the site for more than 7 weeks (35 work days) due to a medical condition or other personal reason, the Individual must request a suspension of the service obligation, in accordance with 42 CFR 62.12. If the Secretary grants the Individual a suspension, the Individual's service end date will be adjusted accordingly and this Agreement will be amended to reflect the new service end date. If the Individual does not request, or does not meet the conditions for, a suspension and is away from the site for more than 7 weeks (35 work days) in the service year, he/she may be placed in default. Attendance at NHSC sponsored conferences does not count against the 35 work days.
6. Individuals requiring time away from their NHSC service site for **maternity, paternity, or adoption** leave must submit a written request for suspension of their service commitment to the NHSC prior to the occurrence. A note from the attending physician indicating the expected delivery date must accompany the request. The NHSC will allow up to 12 weeks away from the site for maternity, paternity, or adoption leave if the clinician qualifies for Family Medical Leave Act. The Individual's service end date will be adjusted accordingly and this Agreement will be amended to reflect the new service end date.



7. NHSC scholarship recipients and loan repayment participants who are reservists that are **called to active duty (CAD)**, must submit a written request for suspension of their service commitment and provide a copy of their CAD orders to the NHSC. If the Individual is unable to notify the NHSC of the CAD prior to deployment, they will have 30 days to provide a copy of the orders. The Individual will be granted a suspension for up to 1 year, beginning on the activation date described in the call to duty order. The suspension will be extended if the applicable Armed Forces entity continues the period of active duty. The NHSC will allow individuals up to 6 weeks re-entry time to return to their site, following the termination of their active duty. The Individual's service end date will be adjusted accordingly and this Agreement will be amended to reflect the new service end date. The period of active duty and re-entry time will not be credited toward the NHSC service commitment.
8. Obtain and maintain malpractice insurance, including tail coverage. (Individuals providing health services under the PPO are not protected by the Federal Government against personal liability for alleged malpractice under the Federal Tort Claims Act, [28 U.S.C. 1346(b); 2671-2680]).
9. Charge persons receiving health services at the usual and customary rate prevailing in the HPSA in which these services are provided, except that health services must be provided at a reduced charge or no charge to those persons unable to pay for these services (for those whose income does not exceed 200 percent of the poverty level). In addition, persons must be charged for services to the extent that payment will be made by a third party authorized or under legal obligation to pay the charges.
10. Provide health services to individuals in the area without discriminating against them because (a) they are unable to pay for those services or (b) payment for these health services will be made under part A or B of Title XVIII of the Social Security Act [42 U.S.C. 1395] ("Medicare"), under a State plan for medical assistance approved under Title XIX of that Act [42 U.S.C. 1396] ("Medicaid"), or under the State children's health insurance program under Title XIX of that Act [42 U.S.C. 1397aa et seq.] ("CHIP").

If the percentage of patients served by the practice who are provided health services at a reduced charge or no charge because of an inability to pay for services is less than 100 percent of the percentage of patients unable to pay for services in the State in which the practice is located or if the percentage of patients served by the practice who pay for services through Medicare is less than 80 percent of the percentage of patients who pay for services through Medicare in the State in which the practice is located or if the percentage of patients served by the practice who pay for services through Medicaid is less than 100 percent of the percentage of patients who pay for services through Medicaid in the State in which the practice is located, a presumption will be raised that the practice is violating this provision. The Individual will be given an opportunity to rebut this presumption by providing evidence sufficient to demonstrate that no violation has occurred.
11. Accept assignments under Section 1842(b)(3)(B)(ii) of the Social Security Act as full payment for all services for which payment may be made under Part B of Title XVIII of such Act ("Medicare").
12. Enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under Title XIX of the Social Security Act ("Medicaid") to provide services to individuals entitled to medical assistance under the plan.
13. Make known to the HPSA population served the terms, conditions, and policies for the PPO in a manner prescribed by the Department of Health and Human Services ("the Department"), by the placing of a notice in the waiting room of the practice, the advertisement of the terms, conditions and policies in appropriate newspapers, or other means of information dissemination selected by the Department.



14. Comply with the policies set forth in the Private Practice Option Information Bulletin.
15. Submit 6 month reports, and other documents as required by the Secretary, relating to the conduct of the private practice.
16. Cooperate with the Department in assessments of the effectiveness and quality of the private practice, including on-site examination of treatment facilities.
17. Maintain practice records (including patient files, business/financial records, and appointment logs) in such form and containing such information that the Department may readily determine if the Individual has complied with, or is complying with, the terms and conditions of this Agreement. Practice records required to be maintained under this Agreement must be maintained for 3 years after the expiration of this Agreement. The records must be retained beyond the 3-year period if an audit is in progress or if any audit findings have not been resolved.
18. Grant the Department access to all records maintained by the practice (including patient files, business/financial records, and appointment logs) which are pertinent to ascertaining compliance with the terms of this Agreement.
19. Operate the private practice consistent with generally accepted medical care standards.
20. Promptly report to the NHSC any change in his/her status as a full-time clinician at the approved service site.
21. If this PPO placement is terminated prior to the expiration of the period specified in this Agreement, the Individual will be reassigned for the remaining period of his/her service obligation, unless the termination is due to the Individual's failure to fulfill the employment requirements of his/her service site or the requirements of this Agreement. After the Individual accepts reassignment, this Agreement will be amended to reflect the new service location and new service end date.

If the Individual (a) terminates his/her employment at the approved service site; (b) fails to fulfill the employment requirements of this site; (c) fails to fulfill the requirements of this Agreement; or (d) refuses reassignment, he/she will be subject to the applicable financial repayment provision of Paragraph 20 below.
22. Except as provided in Paragraph 21, upon failure to begin or complete the obligation in accordance with the terms of this PPO Agreement, the Individual agrees to repay the Federal Government an amount determined by the applicable default provision described below:

#### NHSC Scholarship Program

If the Individual has received a scholarship solely under the NHSC Scholarship Program (Section 338A of PHS Act): an amount determined under the formula set forth in Section 338E(b)(1) of the PHS Act, as amended. The formula provides for payment of damages equalling three times the amount of the NHSC scholarship award received, plus interest at the maximum legal prevailing rate.

If, however, the health professional performs a period of approved full-time clinical practice before a default occurs, the damages owed will be reduced proportionately. The damages owed must be paid within 1 year of the date of default.



### PH/NHSC Scholarship Training Program

If the Individual has received a scholarship solely under the PH/NHSC Scholarship Training Program (Section 225 of the PHS Act): an amount determined under Section 225(f)(1) of the PHS Act as in effect on September 30, 1977. This section provides for payment of the total amount of the PHS scholarship award received, plus interest at the maximum prevailing rate as prescribed by the District of Columbia Code on the day of breach. The amount owed must be paid within 3 years of default.

### Both Scholarship Programs

If the Individual has received scholarships under both the PH/NHSC Scholarship Training Program (Section 225 of the PHS Act), and the NHSC Scholarship Program (Section 338A of the PHS Act): an amount determined under Section 225(f)(1) of the PHS Act for that portion of his/her obligation which was incurred under the PH/NHSC Scholarship Training Program, and an amount determined under Section 338E (b)(1) of the PHS Act for that portion of his/her obligation which was incurred under the NHSC Scholarship Program. For purposes of calculating the amounts owed, the obligations will be considered to have been served in the order in which the scholarships were received.

### NHSC Loan Repayment Program

If the Individual is a participant in the NHSC Loan Repayment Program under Section 338B of the PHS Act: an amount specified in Section 338E(c) of the PHS Act. This section provides for payment of the sum of:

- a. the total of the amounts paid by the United States under 42 U.S.C. Section 254l-1(g) on behalf of the individual for any period of obligated service not served;
- b. an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by \$7,500; and
- c. the interest on the amounts described in subparagraphs (a) and (b), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach; except that the amount the United States is entitled to recover under this paragraph shall not be less than \$31,000.

23. If a judgment has been entered against the Individual for breach of an NHSC Scholarship or Loan Repayment Contract, and the Individual subsequently breaches this PPO Agreement, the Individual's liability will be determined according to the terms of the judgment.

24. Comply with the following additional requirements:

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## **SECTION B - PROMISES OF THE SECRETARY**

The Secretary agrees to:

1. Release the Individual from his/her obligation to serve as a Corps member, incurred under the PH/NHSC Scholarship Training Program, the NHSC Scholarship Program, or the NHSC Loan Repayment Program, to allow the Individual to serve in the full-time private clinical practice of his/her health profession for the period of time specified in Section A.1. and at the location specified in Section A.2.
2. Cancel the Individual's private practice obligation or default repayment obligation if the Individual dies before fulfilling either of these obligations.
3. Exercise reasonable care and provide adequate safeguards to assure that the confidentiality of information regarding individuals identified in any records reviewed during the conduct of Department assessments is not compromised by the misuse of such information.
4. Provide, upon the Individual's request and subject to the availability of appropriated funds, technical assistance to the Individual to assist in fulfilling his/her private practice obligation.
5. The following additional conditions:

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## **SECTION C - EFFECTIVE DATE OF THE AGREEMENT**

This PPO Agreement will take effect only after all of the following conditions have been met:

1. The NHSC has validated the HPSA designation and the site's eligibility to receive an NHSC scholar or loan repayment obligor, as applicable, based on the current NHSC Opportunity List;
2. The Individual's PPO Application and Recruitment and Retention Application have been approved;
3. The individual receives written approval of the PPO from the NHSC; and
4. This PPO Agreement between the Individual and the Secretary has been signed by both parties.

The Individual is cautioned against making personal commitments (such as the purchase or rental of a building or equipment and the hiring of staff) until receipt of official, written approval of the PPO Application from the NHSC.

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***The Secretary or his/her authorized representative must sign this Agreement before it becomes effective.***

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